

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION**

ANTHONY SMITH,

Petitioner,
v.

Case No. 11-12481
Honorable Thomas L. Ludington

PAUL KLEE,

Respondent,
_____ /

ORDER DENYING MOTION FOR RECONSIDERATION

On June 1, 2012, the Court issued an opinion and order denying Petitioner Anthony's Smith petition for writ of habeas corpus and declining to issue a certificate of appealability or leave to appeal in forma pauperis. ECF No. 19. On June 15, 2012, Petitioner filed a motion for reconsideration. ECF No. 21. Eastern District of Michigan Local Rule 7.1(h) permits any party to move for reconsideration of the Court's conclusions within fourteen days of the entry of the order. E.D. Mich. L.R. 7.1(h)(1). The Court does not permit a responsive pleading or hold hearings on motions for reconsideration. *Id.* 7.1(h)(2).

Generally, and without restricting the court's discretion, the court will not grant motions for rehearing or reconsideration that merely present the same issues ruled upon by the court, either expressly or by reasonable implication. The movant must not only demonstrate a palpable defect by which the court and the parties and other persons entitled to be heard on the motion have been misled but also show that correcting the defect will result in a different disposition of the case.

Id. "A palpable defect is a defect that is obvious, clear, unmistakable, manifest or plain." *Scozzari v. City of Clare*, 723 F. Supp. 2d 974, 981-82 (E.D. Mich. 2010) (citation and quotation marks omitted). Furthermore, failure to address an issue constitutes a waiver or abandonment of the argument. *Sault St. Marie Tribe of Chippewa Indians v. Engler*, 146 F.3d 367, 374 (6th Cir. 1998). Motions for reconsideration "are aimed at *re* consideration, not initial consideration." *Id.*; *Scottsdale*

Ins. Co. v. Flowers, 513 F.3d 546, 553 (6th Cir. 2008) (“We have found issues to be waived when they are raised for the first time in motions for reconsideration.”).

Petitioner’s motion for reconsideration restates arguments that have already been provided to and considered by the Court and states his disagreement with the Court’s June 21, 2012 opinion and order. The motion does not, however, “demonstrate a palpable defect by which the court and the parties [were] misled” and consequently must be denied. E.D. Mich. L.R. 7.1(g).

Accordingly, Petitioner’s motion for reconsideration (ECF No. 21) is **DENIED**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: June 29, 2012

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means and on Anthony Smith, #603827, Gus Harrison Correctional Facility, 2727 East Beecher Street, Adrian, Michigan 49221, by first class U.S. mail on June 29, 2012.

s/Tracy A. Jacobs
TRACY A. JACOBS